

REMARKS

Claims 1-23, 25, 29-30, 32-42, 44-48, 51-72, and 87-95 are pending in the application. Claims 1-23, 25, 29-30, 32-42, 44-48, 51-72, and 87-95 have been rejected and are currently under consideration.

Reconsideration and allowance are respectfully requested.

With this paper, claims 1, 68-71, and 89 have been amended as indicated above to correct a typographical error in claim 1, and to correct various informalities in claims 68-71 and 89. These amendments were previously submitted in an Amendment After Appeal Under 37 CFR § 1.116 filed on July 28, 2005. However, in the Advisory Action dated October 13, 2005, the Examiner refused to enter the proposed amendments because they raise new issues that would require further consideration and/or search. In the Response to Advisory Action filed on November 14, 2005, Applicants traversed the refusal to enter the amendments and requested reconsideration of entry. No response has been received regarding this request.

Applicants once again request that the previous refusal to enter the amendments be reversed and that the proposed amendments be entered.

Applicants note that the present application was originally filed on March 3, 2000, over six and a half years ago. In addition, since the filing of a Request for Continued Examination on May 10, 2004, the Examiner has issued a Non-Final Rejection on August 4, 2004, a Final Rejection on February 9, 2005, a first Advisory Action on May 6, 2005, a second Advisory Action on October 13, 2005, a third Advisory Action on February 14, 2005, and most recently a second Non-Final Rejection on May 19, 2006. Pursuant to MPEP § 707.02, Applicants respectfully request that the Supervisor Patent Examiner carefully study the application and grant it "special" status.

Rejections Under 35 U.S.C. § 103

Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Wisner et al. (U.S. Patent No. 6,385,596). The Examiner states, in part:

Wisner discloses a system comprising at least one entertainment unit, e.g., 126, a wide area network, e.g., 102, 106, 11, 112, 116, 118, 124, 128, 132, a master

data file, e.g., 200, col. 10, lines 2-13, having a table of contents, a local list, e.g. col. 10, lines 48-59, memory, e.g. claims 45, 96, a transactions database, e.g. 130, and a user interface, e.g. Fig. 14. Wiser does not disclose the term distributed entertainment system. Official Notice is taken that distributed entertainment systems have been common knowledge in the music distribution art. To have provided the system of Wiser to comprise an distributed entertainment system would have been obvious in view of Official Notice. Alternatively, the music downloaded by Wiser may be an obvious use of an distributed entertainment system.

Applicants respectfully traverse the Examiner's rejection.

First, Applicants note that pursuant to MPEP §2144.03, official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances and should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. Applicants respectfully request that the Examiner provide evidence to support the proposition that "distributed entertainment systems have been common knowledge in the music distribution art."

Second, the Examiner bears the initial burden of factually supporting any *prima facie* conclusions of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP §2142.

Even assuming that the Examiner's Official Notice is proper, Applicants submit that the Examiner has failed to indicate how the cited references teach or suggest all the claim limitations. Accordingly, no *prima facie* case of obviousness has been established.

In the interest of expediting prosecution, Applicants will attempt to respond to the Examiner's rejection as best as possible given the limited amount of guidance provided in the rejection.

Claims 1-10, 25, 39-41, 44-48, 53, 87

Claim 1 recites, in part:

at least one entertainment unit couplable to a wide area network (WAN), the WAN being couplable to a central resource having a central content storage module that stores entertainment content, and including a master list of entertainment content items available through the WAN, the at least one entertainment unit comprising:

...

wherein a user, through the user input device and the user interface, may view the master list and the local list of entertainment content items, and request an item from the master list or the local list, wherein if the requested item is not on the local list, the requested item is transferred to at least one of the at least one entertainment units and performed locally in response to the user request.

(Emphasis added.)

Applicants submit that the Wiser reference fails to teach or suggest the system recited in claim 1. Applicant assumes that the Examiner intended to indicate that the “master data file, e.g. 200, col. 10, lines 2-13, having a table of contents” identified by the Examiner corresponds to the “master list” of claim 1, and that the “local list, e.g. col. 10, lines 48-59” corresponds to the “local list” of claim 1. However, the identified passages in the Wiser reference teach the following:

The media player 116 is the mechanism by which the consumer plays back purchased or previewed audio data, and by which the consumer digitally records purchased media data files to a further external memory, such as a CD-Recordable, CD-RW, Mini-Disc, flash memory, or the like. The media player 116 provides user interface controls for viewing lists of purchased and stored media data files 200, viewing cover and promotional art and graphics, reading lyrics and other liner information, organizing play lists and tracklists, and other music database management features. FIG. 14 illustrates an embodiment of the user interface of the media player 116.

....

The foregoing elements are the basic components for secure distribution of music data given a collection of music and other media. In order to obtain media data files 200 for distribution, the authoring tools 102 are used by individual artists to create the audio data and associated media data in the media data files 200 to be delivered over the network to the content manager 112 for storage in the master media data file system 120. Information descriptive of the master media data files is extracted by the content manager 112 from each of the master media data files and stored in the media information database 106.

(Emphasis added.)

The passage above describes the viewing of lists of media data files 200 which have already been purchased and stored. Applicants are unable to identify how the passages above or any other passages in the Wiser reference teach or suggest a master list of entertainment content items available through the WAN, and an entertainment unit wherein a user may view the master list and the local list of entertainment content items, and request an item from the master list or the local list, wherein if the requested item is not on the local list, the requested item is transferred to at least one of the at least one entertainment units and performed locally in response to the user request, as recited in claim 1.

For at least these reasons, the Wiser reference and the Official Notice fail to establish a *prima facie* case of obviousness of claim 1 and its dependent claims 2-10, 25, 39-41, 44-48, 53, and 87. Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claims 1-10, 25, 39-41, 44-48, 53, and 87.

Although these dependent claims recite distributed entertainment systems which are similarly not made obvious by the Wiser reference and the Official Notice, the following are further examples of features for which the Examiner has failed to establish a *prima facie* case of obviousness. Claim 2 recites that the at least one entertainment unit comprises multiple entertainment units are coupled to each other via a local area network (LAN). Claim 5 recites that the distributed entertainment system further comprises at least one payment device comprising a coin acceptor, a bill acceptor, or a credit card/smart card reader. Claim 7 recites that the central management resource comprises a monitoring module that monitors system components and collects and stores data related to system usage. Claim 8 recites a master attract loop database that stores attract loops available to the at least one entertainment unit, wherein each of the attract loops comprise electronic data that may be displayed to show advertisements and activities that are available on the at least one entertainment unit. Claim 25 recites a master game database that stores information about games available to the at least one entertainment unit, wherein the master list of music and the information about games are included in the master list of entertainment content items available through the WAN.

The Examiner has provided no indication of how the Wiser reference or the Official Notice teach or suggest the limitations of the claims above.

Claims 11-15, 54-60

Claim 11 recites, in part:

content management logic to control the entertainment unit such that in response to receiving a request via the user input device for performance of an item from the list of entertainment content items not stored in the local memory device, retrieving the requested item via a WAN and performing the requested item locally in response to the request.

(Emphasis added.)

The Examiner has failed to indicate how the Wiser reference and the Official Notice teach or suggest all of the limitations of claim 11. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness of claim 11 and its dependent claims 12-15, and 54-60.

In addition, claim 15 recites a game selection GUI through which the user may choose games from the list of entertainment content items stored remotely to be played locally. Claim 54 recites a local area network (LAN) interface through which the network entertainment unit may communicate with similar network entertainment units in a venue. The Examiner has provided no indication of how the Wiser reference or the Official Notice teach or suggest the limitations of the claims above.

Claims 16-23, 61, 88

Claim 16 recites, in part:

at an entertainment unit in a venue, the entertainment unit comprising a network interface for coupling to a WAN, receiving a request for an item of entertainment content from a user, wherein the request includes a selection from a list of entertainment content, the list including a master list of entertainment content stored in at least one location on a network and a list of local content stored on a memory device on the entertainment unit, the local content grouped according to a common characteristic, but where the selection requests entertainment content not stored on the entertainment unit;

transmitting the request via the WAN to a central management resource remote from the venue;

supplying the requested entertainment content item to the entertainment unit from a memory device on the central management resource, wherein the entertainment content item comprises music or an electronic game;

receiving the requested entertainment content item at the entertainment unit in the venue; and

presenting the entertainment content item to the user upon successful delivery to the entertainment unit.

(Emphasis added.)

The Examiner has failed to indicate how the Wiser reference and the Official Notice teach or suggest all of the limitations of claim 16. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness of claim 16 and its dependent claims 17-23, 61, and 88.

In addition, claim 88 recites that the entertainment unit is coupled to a local area network (LAN) connected to different entertainment units in the venue, the method further comprising: in response receiving the request for entertainment content item, transmitting the request via the LAN to a different entertainment unit in the venue; and supplying the requested entertainment content to the entertainment unit from a memory device on the different entertainment unit. Claim 18 recites receiving a request to purchase products available at the venue; and charging the user account for any requested products that are supplied to the user. The Examiner has provided no indication of how the Wiser reference or the Official Notice teach or suggest the limitations of the claims above.

Claims 29-30, 32-34, 62-67

Claim 29 recites, in part:

at least one electronic entertainment device coupled to the network, the at least one electronic entertainment device including a local storage unit, a local cache, a user input device, and a user interface, wherein the user interface displays to a user a local list of entertainment content stored on the entertainment device and the master list of entertainment content available on the network, and wherein in response to a selection of an entertainment content item received by the user input device, the at least one electronic entertainment device determines whether the selected entertainment content item is stored in the local storage unit;

if the selected entertainment content is stored in the local storage unit of the electronic entertainment device, the selected entertainment content is performed on the electronic entertainment device from the local storage unit; and

if the selected entertainment content is not stored in the local storage unit, the selected entertainment content is requested from the central resource over the network, transferred to the electronic entertainment device, and performed in response to the user request on the electronic entertainment device after being received.

(Emphasis added.)

The Examiner has failed to indicate how the Wiser reference and the Official Notice teach or suggest all of the limitations of claim 29, and in particular that the electronic entertainment device determines whether the selected entertainment content item is stored in

the local storage unit. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness of claim 29 and its dependent claims 30, 32-34, and 62-67.

Claims 35-38, 42, 51-52, 68-72, 89

Claim 35 recites, in part:

content management logic configured to control the entertainment unit such that in response to a request via the user input device to perform an entertainment content item not stored in the local memory device:
the entertainment unit requests the requested entertainment content item from the central resource;
the entertainment unit receives the requested entertainment content item from the central resource; and
the entertainment unit performs the requested entertainment content item.

The Examiner has failed to indicate how the Wiser reference and the Official Notice teach or suggest all of the limitations of claim 35. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness of claim 35 and its dependent claims 36-38, 42, 51-52, 68-72, and 89.

In addition, claim 38 recites that the local list of the entertainment content stored on the local memory device comprises entertainment content items from more than one entertainment unit in the local venue. Claim 70 recites that the item of entertainment content requested from the central resource is placed in queue to be performed locally in response to the user request upon receipt from the central resource. Claim 71 recites that the item of entertainment content requested from the central resource is performed locally in response to the user request immediately upon receipt from the central resource. The Examiner has provided no indication of how the Wiser reference or the Official Notice teach or suggest the limitations of the claims above.

Claims 90-94

Claim 90 recites, in part:

receiving via a user input device a request from the user to perform an entertainment content item not stored on the local memory; and
in response to the request, retrieving the requested entertainment content item from a central resource via the network interface and performing the requested entertainment content item.

(Emphasis added.)

The Examiner has failed to indicate how the Wiser reference and the Official Notice teach or suggest all of the limitations of claim 90. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness of claim 90 and its dependent claims 91-94.

In addition, claim 91 recites that the method further comprises immediately upon retrieving the requested entertainment content item from the central resource, placing the requested entertainment content item in queue for local performance. Claim 93 recites that the method further comprises prior to receiving the request to perform the entertainment content item, receiving payment from a user. The Examiner has provided no indication of how the Wiser reference or the Official Notice teach or suggest all of the limitations of the claims above.

Claim 95

Claim 95 recites, in part, an entertainment unit comprising:

- a memory comprising one or more digital storage devices storing:
 - a local list of the plurality of entertainment content items stored locally in the memory;
 - a master list of entertainment content items stored on the central resource; and
- content management logic for controlling the operation of the entertainment unit such that in response to receiving a request via the user input device for an entertainment content item not on the local list of entertainment content items, the requested entertainment content item is retrieved from the central resource via the network interface and performed locally in response to the request.

(Emphasis added.)

The Examiner has failed to indicate how the Wiser reference and the Official Notice teach or suggest all of the limitations of claim 95. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness of claim 95.

CONCLUSION

In light of the foregoing, Applicant respectfully requests that the rejections be withdrawn and the pending claims allowed. Should any other action be contemplated by the Examiner, it is respectfully requested that he contact the undersigned at (408) 392-9250 to discuss the application.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-2257 for any matter in connection with this response, including any fee for extension of time and/or fee for additional claims, which may be required.

FILED VIA EFS-WEB

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